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CONCORD, N.H.

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October 15

Dr. Hilton C. Buley,
Commissioner of Education,
State House

Dear Dr. Buley:

Because of the absence of Mr. Dowst from the office, I have undertaken to study the questions raised in your letter dated September 24, 1951.

Your first question is whether the State Board of Education may rescind earlier action accepting the resignation of Dr. Jones as of August 31st to permit action accepting his resignation as of September 30th, for the purpose of permitting payment of compensation in lieu of accumulated annual vacation leave. My opinion is that this may not be done. The position of Director of the Plymouth Teachers College is not classified within the provisions of Laws of 1950, chapter 9. There is no provision either by statute or by regulation for annual leave of non-classified employees. Payment of salary in lieu of vacation, subsequent to the retirement of a non-classified employee, would constitute the making of a gift, for which there is no authority. -I therefore believe that the action concerning which you inquire may not be taken.

In answer to your second question, it is my opinion that the State Board does have authority under the terms of R.L., c. 137, s. 3 to assign pupils to elementary and high schools within the district as well as to such schools outside of the district. If the school which you have designated as "F" is within the same district as school "W", as I understand, then no question concerning payment of tuition as provided in section 3-a of this chapter will arise. In my opinion the State Board, in connection with ss. 1, 2, 3 and 3-a of this chapter, after notice to the school board, is authorized to act within its best judgment, taking into account the availability of the other school, the best interests of the child, and the considerations which affected the local board in making the assignment.

Your third question concerns the method of charging travel incurred by an employee in his personally-owned vehicle. As to this question, I should like to postpone rendering an opinion until I can make further study of regulations which may have been adopted.

Very truly yours,

Maurice M. Blodgett
Deputy Attorney General